

March 16, 2009 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI, held at the Middletown Town Hall on Monday, March 16, 2009 at 7:00 P.M.

Council President Christopher T. Semonelli, Presiding

Vice Chairman Richard Cambra

Councillor Frank A. Bozyan

Councillor M. Theresa Santos

Councillor Robert J. Sylvia

Councillor Barbara A. VonVillas, Members Present

Councillor Edward J. Silveira, Jr., Absent

CONSENT CALENDAR

Vice Chairman Cambra requested to have item # 9 heard under the Town Council portion of the docket.

1. Approval of Minutes – Regular Meeting, February 17, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

2. Approval of Minutes – Regular Meeting, March 2, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said minutes.

3. Applications received from the following named persons, firms and corporations for RENEWAL of Holiday Licenses for the 2009-2010 licensing year. (See Attached List)

HOLIDAY LICENSE

Expires: April 2, 2010

Beebe & Family, Inc.- 7-Eleven Food Stores- 726 Aquidneck Avenue

NNGC Corp./ Newport National Golf Club- 324 Mitchell's Lane

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.

4. Applications received from the following named persons, firms and corporations for RENEWAL of Amusement Licenses for the

2009-2010 licensing year. (See Attached List)

**Amusement License 2009-2010
2010**

Expires: April 15,

Brewski's LLC d/b/a Brewski's- 10 Maple Avenue

First Beach, LLC d/b/a Inn at Newport Beach- 1 Wave Avenue

HPK, Inc. d/b/a Tickets- 15 Aquidneck Avenue

Island Cinema 10- 866 West Main Road

Island Management, Inc. d/b/a Flo's Clam Shack- 4 Aquidneck Avenue

**Johnny's Atlantic Beach, Inc. d/b/a Johnny's Atlantic Beach Club-53
Purgatory Road**

**Kempenaar's Catering d/b/a Kempenaar's Clambake Club- 323 Valley
Road**

KJ'S Pub, Inc. d/b/a KJ's Pub- 59-61 Aquidneck Avenue

Lacey, Inc. d/b/a Easton's Point Pub & Restaurant- 116 Aquidneck Avenue

SK Industries, Inc. d/b/a Rusty's- 44 Wave Avenue (First Floor)

Sweet Berry Farm, Inc. d/b/a Sweet Berry Farm- 915 Mitchell's Lane

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.

5. Applications received from the following named persons, firms and corporations for RENEWAL of Peddlers Licenses for the 2009-2010 licensing year. (See Attached List)

**PEDDLERS LICENSES 2009-2010
2010**

Expires: April 30,

Long Ade, LLC/Del's Lemonade

729 West Main Road

RI 175830 – FSV11114

Long Ade, LLC/Del's Lemonade

729 West Main Road

RI 176065– FSV11109

Long Ade, LLC/Del's Lemonade

729 West Main Road

RI 42248 – FSV14982

Long Ade, LLC/Del's Lemonade

729 West Main Road

RI 100993 – FSV18227

Long Ade, LLC/Del's Lemonade

729 West Main Road

RI 50400

Peter Kelly's Ice Cream

122 Viking Drive

Portsmouth

RI 78261 - FSV19730

Peter Kelly's Ice Cream

122 Viking Drive

Portsmouth

RI 57367- FSV09984

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.

6. Applications received from the following named persons, firms and corporations for RENEWAL of Hawkers Licenses for the 2009-2010 licensing year. (See Attached List)

HAWKERS LICENSES 2009-2010

Expires: April 30, 2010

Louis and Denise D'Amico

77 Briarwood Avenue

RI12804 – FSV24383

Second Beach Partners LLC (3 carts)

dba Surf Side Grill

Second Beach

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license renewals.

7. Communication of Corey A. Huck, Chairman, Aquidneck Island Police Parade Committee, re: Requesting to utilize Linden School as a staging area for the Aquidneck Island National Police Parade Sunday, May 3, 2009.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and approve utilization of Linden School as a staging area for the Aquidneck Island National Police Parade Sunday, May 3, 2009.

8. Proclamation of the Council, re: April 2009 as Fair Housing Month in the Town of Middletown.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to approve said proclamation.

9. Memorandum of Arthur S. Weber, Jr., Chairman, Middletown Planning Board, with enclosures, re: Request for advisory recommendation on a proposal to amend the Middletown Zoning Ordinance, Article 4 and Article 22 regarding Senior Independent Living Facilities. (Requires advertising for Public Hearing)

Antone Vivieros, 110 Indian Hill Road, expressed concern with the amendment to the Senior Independent Living Facilities Zoning Ordinance.

Bruce Ryerson, 391 Forest Avenue, requests the Council to schedule a meeting with Forest Avenue residents to update new Council members concerning the historical information of the Bay Ridge development. Mr. Ryerson suggests the meeting take place prior to the public hearing on the amendment to the zoning ordinance.

Bruce Long, 1 Winfield Court, the real issue at hand is what happens to Bay Ridge development because approvals made in 2004. Mr. Long noted that there are many issues regarding the Bay Ridge development which the residents would like to address at a special meeting with the Town Council.

Town Solicitor Michael Miller noted the change to the Senior Independent Living Facilities ordinance meets requirements to be compliant with the RI State Law.

Councillor VonVillas recommended Council President Semonelli and Town Administrator Shawn Brown discuss the possibility of a meeting with the Council and residents of Forest Avenue and notify the residents of the decision.

Arthur Benner, 3 Namquid Drive, reviewed the history of the Bay Ridge development and expressed concern with the units allowed to be built within the development.

On motion of Councillor Santos, duly seconded, it was voted unanimously to receive said memorandum and advertise said amendment for hearing to be held at the May 4, 2009 regular meeting of the Council.

10. Communication of Patrick O’N. Hayes, Jr., re: 55 and older zoning change.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

11. Notice of Public Hearing received from the Zoning Board of Review, Petition of Notarianni Realty, Inc, owner, for a Special Use Permit form Sections 1211, Table 12-3, to allow replacement of a freestanding sign, on real estate located at 717 West Main Road, TAP 107NE, Lot 21.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said notice.

12. E-mail communication of Town Clerk, Town of East Greenwich, with enclosure, re: Resolution supporting certain articles of House Bill 5019 Budget Articles.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said email communication and resolution.

13. E-mail from Town Clerk, Town of West Warwick, re: Resolution in support for end of Caruolo Act.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said resolution.

TOWN COUNCIL

- 1. Memorandum of Town Administrator, with enclosures, re: Wind Turbines.**

Town Administrator Shawn Brown reviewed his memorandum entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

2. Application of Florence A. Cyr dba Dawg House, Middletown for a Hawkers License (Food and Beverage) for use on premises located at 47 Valley Road and at special events by invitation only for the 2009-2010 licensing year. (NEW)

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to grant said license.

3. Communication of Joseph R. Steele, with enclosure, re: Offer to return Burial Lots 27 thru 32, Section 47 in the Middletown Cemetery.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication and approve to accept said offer.

4. Memorandum of Town Administrator, with enclosures, re: Policy Preserving Sachuest Beach.

Antone Vivieros, 110 Indian Hill Road, addressed the Council noting that he is concerned with putting a policy in place for preserving the beach areas. Mr. Vivieros suggests the beaches be addressed through the Town Charter so, that the electorate may vote on the matter.

Councillor Santos noted the need to preserve the beaches however, is concerned that a policy can be changed.

Town Solicitor Michael Miller explained the implications of restricting a Town asset.

Council President Semonelli supports the policy however, requests the solicitor to draft an ordinance.

Councillor Sylvia noted that the past Councils did fine protecting the

beach and suggests that all have faith in future Councils to make decisions.

Councillor Bozyan supports taking the preservation of the beach a step further noting policies can change rapidly.

Councillor VonVillas suggest that the Council is over reacting to something that may not happen.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Council President Semonelli, duly seconded, it was voted to request the Town Solicitor to draft an ordinance for preservation and protection of Sachuest beach, including seeking the opinion of the Beach Commission; Council President Semonelli, Vice Chairman Cambra, Councillors Bozyan and Santos voted YES; Councillors Sylvia and VonVillas vote NO to said motion.

On motion of Vice Chairman Cambra, duly seconded, it was voted to approve the beach policy, Council President Semonelli, Vice Chairman Cambra, Councillors Bozyan, Santos and VonVillas, voted YES; Councillor Sylvia voted NO to said motion; policy entered here:

5. Communication of Antone Viveiros, 110 Indian Hill Road, re: Request to discuss the creation of a policy to protect Sachuest Beach.

Arthur Benner, 3 Namquid Drive, expressed support of having the voters decide on any changes to Sachuest Beach.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

6. Communication of Antone Viveiros, 110 Indian Hill Road, re: Request to discuss executive session between the previous Council and the Land Trust.

Antone Viveiros, 110 Indian Hill Road, requests the Council to unseal executive session minutes to reveal the intent of the previous Council concerning Sachuest Beach.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication.

7. Memorandum of Town Administrator, with enclosures, re: Authorization to Submit Drug Free Communities Grant.

Town Administrator Shawn Brown reviewed the communication entered here:

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said memorandum.

On motion of Councillor Santos, duly seconded, it was voted unanimously to authorize the submission of the grant application for the Drug Free Communities Grant.

Councillor Sylvia left the meeting.

8. Memorandum of Town Administrator, with enclosures, re: Formation of 2010 Census Complete Count Committee.

Cynthia Scott, North Main Street, Providence, Rhode Island, representing the US Census Bureau, addressed the Council requesting that the Town establish a Census Complete Committee.

On motion of Vice Chairman Cambra, duly seconded, to receive said memorandum, for said 2010 Census Complete count Committee and request the Town Clerk to advertise for positions on said committee; Councillor Santos amended said motion to advertise for seven positions on said committee, duly seconded, it was voted unanimously to advertise for seven position on said committee.

9. Appointment of five (5) members to the Juvenile Hearing Board; three (3) regular members and two (2) auxiliary members for terms expiring April 2012.

Vice Chairman Cambra nominated Barry W. Clark, George B. Ramsey, Jane E. Regan, Steven P. Rodrigues, and John Terlisner.

Councillor Santos nominated Barry W. Clark, George Ramsey, Jane Regan and Steven Rodrigues.

A vote was taken; Council President Semonelli, Vice Chairman Cambra, Councillors Bozyan and VonVillas voted to reappoint Barry W. Clark, as a regular member, reappoint George B. Ramsey, as a regular member, appoint Jane E. Regan, as a regular member, appoint Steven P. Rodrigues as an auxiliary member, and appoint John Terlisner as an auxiliary member with terms expiring April 2012; Councillor Santos voted NO.

10. Communication of Claudia Carlson Vars, Director of Vocal Music, Middletown Public Schools, re: Recognition for Rebecca Cunha, selected to represent Rhode Island at National Music Festival, request for donation.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to receive said communication, to approve said request and authorize a \$250.00 donation to be appropriated from the Council President's Discretionary Fund.

11. Communication of Cheryl G. Robinson, President, Turning Around Ministries, Inc., re: Request for support by placing an ad in the

Souvenir Booklet or making a contribution to TAM.

On motion of Vice Chairman Cambra, duly seconded, to receive said communication and approve a full-page ad (cost \$100.) in the Souvenir Booklet to be appropriated from the Council President's Discretionary Fund; motion amended to table until clarification on religious status of said organization is determined, duly seconded, it was voted unanimously.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

No one addressed the Council during this session.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4. and 42-46-5. (a) (1) personnel (Town Administrator) and (2) litigation (Kempen vs. Town of Middletown) and (2) collective bargaining (Police, Fire, Public Works and Town Hall).

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to recess this meeting at 8:17 P.M. and reconvene in executive session.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to reconvene this meeting in open session at 9:19 P.M.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to

Section 42-46-7. RIGL.

On motion of Vice Chairman Cambra, duly seconded, it was voted unanimously to adjourn this meeting at 9:20 P.M.

Wendy J.W. Marshall, CMC

Council Clerk